

LITCHFIELD
ATTORNEYS AT LAW **CAVO** LLP

WRITER'S ADDRESS:

303 West Madison Street | Suite 300
Chicago, IL 60606-3300
D (312) 781-6569
F (312) 781-6630

Michael L. Hahn
Email: Hahn@LitchfieldCavo.com

November 23, 2022

Via ECF Transmission

Hon. Vincent L. Briccetti
United States Courthouse
300 Quarropas Street, Room 630
White Plains, New York 10601

Re: *Nicole Zachman v. Hudson Valley Federal Credit Union*
Docket No.: 7:20-cv-01579-VB
LC File No.: 6361-46

Dear Judge Briccetti,

This is further to the Court's order of October 21, 2022 wherein you directed the parties to file a joint letter stating the parties' positions on conducting further proceedings consistent with the Second Circuit's opinion, including proceeding to a summary trial.

Plaintiff's Position

Plaintiff intends to move to amend the complaint to add an additional class representative. The amended complaint will assert the same theory of liability. Defendant has not yet informed Plaintiff of Defendant's position on that forthcoming motion. In the event Defendant consents to the amendment or the Court otherwise grants the motion to amend, Plaintiff believes that the most efficient path forward would be for the Defendant to respond to the amended complaint, and for the Parties to subsequently set a schedule for arbitration-related discovery and further briefing.

Following additional briefing, Plaintiff believes an evidentiary hearing or summary trial pertaining to arbitration will be necessary. After Defendant responds to the amended Complaint, Plaintiff will meet and confer with the Defendant to propose a further case schedule and include a proposed date for the evidentiary hearing or summary trial.

In the event Defendant opposes the motion to amend and the Court denies the motion, Plaintiff believes the Court should proceed to an evidentiary hearing or summary trial on the current record.

Atlanta | Boston area | Chicago | Dallas-Fort Worth | Fort Lauderdale | Hartford area | Houston | Indiana
Las Vegas | Los Angeles area | Louisiana | Milwaukee | New Jersey | New York | Philadelphia | Phoenix
Pittsburgh | Providence | Salt Lake City | St. Louis | Tampa | West Virginia



November 23, 2022

Page 2

Plaintiff's Counsel also respectfully requests to attend the forthcoming status conference remotely via telephone or videoconference.

Defendant's Position

Hudson Valley Federal Credit Union believes that the most effective way of following the mandate of the Second Circuit is to place before the Court the available evidence demonstrating that Plaintiff was put on inquiry notice with respect to the arbitration provision applicable to her claims by way of motion. Hudson Valley suggests that this be done by way of either a renewed motion to compel arbitration or a sur-reply to its previous motion. The parties would then be entitled to take discovery with respect to the issues raised in Hudson Valley's renewed motion or sur-reply.

Plaintiff's counsel has advised Hudson Valley that they have identified another individual plaintiff and that they will seek to amend their complaint to add that plaintiff. In that event, Hudson Valley suggests that addressing the Second Circuit's mandate be postponed until Plaintiff's counsel moves to amend and that motion is resolved.

Alternatively – should the Plaintiff, proposed plaintiff, and Plaintiff's counsel agree – Hudson Valley requests that this matter be stayed for 60 days while the parties explore settlement.

The parties look forward to discussing this matter with you at the next scheduled status conference on December 1, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Hahn".

Michael L. Hahn

/s/ Sophia Gold

Sophia Gold